

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN JONES,

Plaintiff,

v.

Case No. 2:10-cv-12114

District Judge Arthur J. Tarnow

Magistrate Judge Anthony P. Patti

PATRICIA BARNHART, *et al.*,

Defendants.

**ORDER GRANTING IN PART PLAINTIFF'S UNOPPOSED MOTION TO
SHOW CAUSE FOR DEFENDANT BARNHART'S FAILURE TO
COMPLY WITH THE COURT'S FEBRUARY 27, 2015 ORDER**

This matter is before the Court for consideration of Plaintiff's "motion for show cause and sanctions for defendant's failure to disclose[] discovery." (DE 100.)¹ As background, on February 27, 2015, I granted in part Plaintiff's motion to compel discovery and specifically ordered, in relevant part, the following:

Within fourteen (14) days of the date of this order, Defendant Barnhart SHALL serve upon Plaintiff (1) responses to Plaintiff's January 25, 2014 Fed. R. Civ. P. 34 discovery requests and (2) written answers to Plaintiff's five January 25, 2014 Fed. R. Civ. P. 31 discovery requests directed to Barnhart.

¹ Although Plaintiff titles his motion as one for sanctions, the substance of his motion asks the Court to order Defendant Barnhart to show cause as to why she should *not* be sanctioned. Accordingly, and as addressed below, any potential sanctions will be addressed by Report and Recommendation after Defendant Barnhart has filed her response.

This Court construes Plaintiff's five January 25, 2014 Fed. R. Civ. P. 31 discovery requests as interrogatories under Fed. R. Civ. P. 33. Defendant Barnhart SHALL answer them as interrogatories, under oath.

(DE 94 at 19-20.) Plaintiff filed the instant motion on May 14, 2015, asserting that Defendant Barnhart has failed to comply with the Court's order to provide discovery responses. In addition, Plaintiff provides an affidavit attesting to the same. He asks the Court to hold a hearing requiring Defendant Barnhart to show cause for: 1) failing to follow the Court's order to provide discovery responses; and 2) why she should not be sanctioned for her failure. Pursuant to the Local Rules, "[a] response to a nondispositive motion must be filed within 14 days after service of the motion." E.D. Mich. LR 7.1. To date, Defendant Barnhart has not filed a response to Plaintiff's motion.

Plaintiff's motion is **GRANTED IN PART AND DENIED IN PART**. (DE 100.) Specifically, rather than holding a hearing or making a recommendation on sanctions at this point, Defendant Barnhart is **ORDERED TO SHOW CAUSE**, in writing, **ON OR BEFORE SEPTEMBER 30, 2015**, why she has failed to comply with the Court's February 27, 2015 order to provide discovery. In addition, she must show cause as to why the Court should not impose sanctions for such a failure. Any good cause showing must be supported by affidavit. When Defendant Barnhart files her response (or if she fails to file a response in the

timeline required), Plaintiff may renew his motion for sanctions or I may issue a Report and Recommendation that the Court impose such sanctions *sua sponte*.

IT IS SO ORDERED.

Dated: August 28, 2015

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on August 28, 2015, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti